Whether the assignee of a life insurance policy must have an insurable interest in the life of the insured is a matter about which the courts are in conflict. It is clear that a policy procured by one having an insurable interest, with intent immediately to assign it to one without an interest for the purpose of evading the law against wager policies, would be void; the fraudulent element vitiates the entire transaction. *Warnock* v. *Davis,* 104 U. S. 775; *Cammack* v. *Lewis,* 15 Wall 643. But if a policy is perfectly valid at its inception, it can subsequently be assigned to one without an interest, as held in the principal case, which agrees with the weight of authority. *Fitzpatrick* v. *Hartford Insurance Co.,* 56 Conn. 116; *Rylander* v. *Allen,* 125 Ga. 206; *Davis* v. *Brown,* 159 Ind. 644; *Farmers and Traders' Bank* v. *Johnson,* 118 Iowa 282; *Succession of Hearing,* 26 La. Ann. 326; *King* v. *Cram,* 185 Mass. 103; *Prudential Insurance Co.* v. *Liersch,* 22 Mich. 436; *Murphy* v. *Red,* 64 Miss. 614; *Chamberlain* v. *Butler,* 61 Neb. 730; *Hardy* v. *Aetna Ins. Co.,* 152 N. C. 286; *Mechanics Bank* v. *Comins,* 72 N. H. 12; *Givens* v. *Veeder,* 9 N. M. 256; *Steinbach* v. *Diebenbrock,* 158 N. Y. 24; *Eckel* v. *Renner,* 41 O. St. 232; *Brett* v. *Warnick,* 44 Or. 511; *Clark* v. *Allen,* 11 R. I. 439; *Crosswell* v. *Conn. Indemnity Asso.,* 51 S. C. 103; *Clement* v. *Insurance Co.,* 101 Tenn. 22; *Harrison's Admin.* v. *Mut. Life Ins. Co.,* 78 Vt. 473; *Bursinger* v. *Bank of Watertown,* 67 Wis. 75; *Grigsby* v. *Russell,* 222 U. S. 149; *Gordon* v. *Ware,* 132 Fed. 444; *Ashley* v. *Ashley,* 3 Sim. 149; *Vezina* v. *N. Y. Life Ins. Co.,* 6 Can. Sup. Ct. 30; *Mutual Life Ins. Co.* v. *Anderson,* 1 N. Bruns. Eq. Rep. 466. Cases holding that an insurable interest in the assignee is necessary are: *Sands* v. *Hammel,* 108 Ala. 624; *Mo. Valley Life Ins. Co.* v. *McCrum,* 36 Kan. 146; *Basye* v. *Adams,* 81 Ky. 368; *Tate* v. *Building Ass'n.,* 97 Va. 74. The recent case of *Grigsby* v. *Russell, supra,* in which the dicta of *Warnock* v. *Davis, supra,* to the effect that an insurable interest in the assignee was necessary, was repudiated by the United States Supreme Court, settles the long controverted question as to the exact attitude of that court. Thus it appears that the later authorities hold an insurable interest in the assignee is unnecessary. This establishes the insurance policy as a convenient chose in action in all commercial dealings. The mere fact that fraud may be present in some of these transactions ought not to be sufficient reason to retard the courts, for fraud could be as easily proven here as in other matters.

JUDGMENT—ACTION ON FOREIGN JUDGMENT—MERGER.—Plaintiff sued defendant in Massachusetts and obtained judgment. Later he sued the same defendant in California on the Massachusetts judgment, and defendant set up the fact that a judgment based on the Massachusetts judgment had been obtained by the plaintiff against him, and had become final in the state of Washington, so that it merged the Massachusetts judgment. *Held,* there was no merger and it was proper to sue on the Massachusetts judgment. *Lilly-Brackett Co.* v. *Sonnemann* (Cal. 1912), 126 Pac. 483.

This is a case of first impression in California, and the court follows the decisions of other jurisdictions. These cases are rather meager, and in conflict. A recovery of judgment in one state in a court of competent juris-

diction merges the original cause of action so that it can not thereafter be the basis of a new suit in another state. *North Bank* v. *Brown,* 50 Me. 214, 79 Am. Dec. 609; *Baxley* v. *Linah,* 16 Pa. St. 241, 55 Am. Dec. 494; *McGilvray* v. *Avery,* 30 Vt. 538. Therefore it would seem that "a judgment is extinguished when, being used as a cause of action, it grows into another judgment.' *Garvin* v. *Garvin, 27* S. C. 472, 477, 4 S. E. 148; *Lawton* v. *Perry,* 40 S. C. 255, 265, 18 S. E. 861; *Gould* v. *Hayden,* 63 Ind. 443; *Price* v. *First Nat. Bank,* 62 Kan. 735, 84 Am. St. Rep. 419, 64 Pac. 637; *Whiting* v. *Beebe* 7 Eng. (Ark.) 421; *Purdy* v. *Doyle,* 1 Paige 558. However, the principal case prefers the other line of authorities, proceeding on the ground, as it says, that "a judgment on a judgment, being of the same dignity, does not fall within the general rule that a cause of action is merged in the judgment." *Weeks* v. *Pearson,* 5 N. H. 324; *Jackson* v. *Shaffer,* 11 Johns. 513; *Springs* v. *Pharr,* 131 N. C. 191, 42 S. E. 590, 92 Am. St. Rep. 775; *Armour* v. *Addington,* 1 Ind. Terr. 304, 37 S. W. 100; *Andrews* v. *Smith,* 9 Wend. 53; *Mumford* v. *Stocker,* 1 Cow. 178. To the argument that a debtor would be harassed by a large number of creditor's judgments, the court gave the succulent answer, in the principal case, that to avoid this, let the debtor pay his due.

JUDGMENT—IRREGULARITY OF PROCEEDING—COLLATERAL ATTACK.—The statute provided that summons was to be served by the sheriff of the county where the defendant was found, or by a person not a party to the action, and in the latter contingency to be returned with an affidavit of its service. A summons was served by the sheriff of Logan county, in Arapahoe county, not acting as sheriff, but as a person not a party to the action as provided by the statute, but the return lacked the required affidavit. The action went by default, and judgment was rendered thereon. In a later action this judgment was attacked collaterally on account of the irregularity in the return of summons, and *held,* the judgment was void. *Munson* v. *Pawnee Cattle Co.* (Colo. 1912), 126 Pac. 275.

It is believed that this case does not follow the better rule, for holding the return jurisdictional is an inducement to the opposite party not to defend, but to rely on defeating the proceeding collaterally on such grounds, or if he knows of the defect to let it pass with intent to defeat the judgment by it. This makes the result turn on trick, rather than on the merits of the case. If the party knows of the defect, let him speak, or thereafter hold his peace. *Ballinger* v. *Tarbell,* 16 Ia. 491, 85 Am. Dec. 527; *Smoot* v. *Judd,* 184 Mo. 508, 83 S. W. 481. See also, *Campbell* v. *Hays,* 41 Miss. 561, which is in direct conflict with the principal case on precisely the same state of facts. As bearing directly on the subject, 1 MICH. L. REV. 645; *Cole* v. *Butler,* 43 Me. 401; and 10 MICH. L. REV. 384.

MASTER AND SERVANT—INJURY TO RAILROAD EMPLOYE.—The decedent was a brakeman in the employ of the defendant company and was killed while crossing the switchyards of the company on his way home from work. The evidence showed that the accident was caused by a car backing against the decedent, that it happened in the night time, that there was no light on the